

D'AGOSTINE, LEVINE & GORDON, P.C.

ATTORNEYS AT LAW

268 MAIN STREET

ACTON, MASSACHUSETTS 01720-2223

508-263-7777

FAX 508-264-4868

FILE COPY

JULIAN J. D'AGOSTINE
LOUIS N. LEVINE
STANLEY L. GORDON
F. ALEX PARRA
CATHY S. NETBURN

BOSTON OFFICE:
ONE BOSTON PLACE

CABLE "DALYN"

FEB 11 1991

February 8, 1991

David Y. Bannard, Esquire
Palmer & Dodge
One Beacon Street
Boston, MA 02108

Re: Audubon Hill South Condominium, Acton, Massachusetts

Dear Dave:

I was contacted by Roy Smith's office several days ago to prepare an amendment to the Master Deed of Audubon Hill South Condominium deleting Unit No. 38 as a Restricted Unit and substituting Unit No. 29 in its place. Roy informs me that Unit No. 29 was always intended to be a Restricted Unit, but was changed to Unit 29 in order to accomodate a potential buyer, who is no longer interested in purchasing Unit No. 38 as a Restricted Unit.

Due to the nature of the requested change, I am forwarding a copy of the proposed Amendment to you for your review. I am forwarding the original directly to Don Johnson and would ask that you give Don your approval to execute the assent and return the executed original directly to me.

Thankyou for your prompt consideration in this matter.

Very truly yours,

D'AGOSTINE, LEVINE & GORDON, P.C.

By: 
Stanley L. Gordon

SLG/
j/bannard.i

cc: R. Smith Associates, Inc.
Don Johnson, Town Manager

AMENDMENT NO. 1 TO THE MASTER DEED
OF AUDUBON HILL SOUTH CONDOMINIUM

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill South Condominium dated November 15, 1990, recorded November 20, 1990 in Book 20875, Page 79 with the Middlesex South District Registry of Deeds, in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11 and 14 of said Master Deed do hereby amend the Master Deed of Audubon Hill South Condominium by deleting Unit No. 38 from Section 9.2, Subsection (a) and Subsection (b) and substituting Unit No. 29 in its place. Notwithstanding anything to the contrary, it is the intent of this amendment that Unit No. 29 be a "Restricted Unit" and that Unit No. 38 not be a "Restricted Unit".

In all other respects, the terms and provisions of the Master Deed, as amended, are hereby ratified and confirmed.

Witness our hand and seal this _____ day of February, 1991.

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

By: _____
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February , 1991

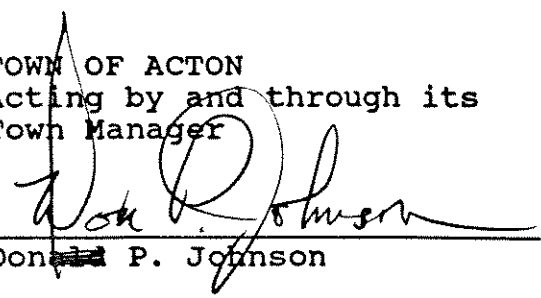
Then personally appeared the above-named Roy C. Smith, President, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public
My commission expires:

k/amendment

The Town of Acton hereby assents to the foregoing Amendment Number 1 To The Master Deed of Audubon Hill south Condominium and certifies that this document complies with the Terms, Conditions and Restrictions as delineated in the Comprehensive Development Agreement dated June 23, 1989, recorded in Book 19966, Page 008 with the Middlesex South District Registry of Deeds as supplemented by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, said Deeds.

TOWN OF ACTON
Acting by and through its
Town Manager

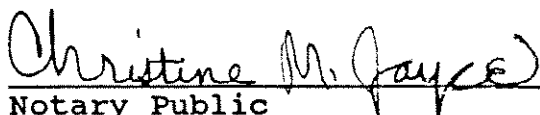

Donald P. Johnson

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

February , 1991

Then personally appeared the above named Donald P. Johnson Town Manager of the Town of Acton, and acknowledged the foregoing to be the free act and deed of the Town of Acton, before me


Notary Public
My Commission Expires: 05-13-94

k/audusouthmasterdeed

D'AGOSTINE, LEVINE & GORDON, P.C.

ATTORNEYS AT LAW

268 MAIN STREET

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F. ALEX PARRA

CATHY S. NETBURN

JOHN M. DOMBROWSKI

BOSTON OFFICE:
ONE BOSTON PLACE

CABLE "DALYN"

August 9, 1991

VIA EXPRESS MAIL
NO. RB66293347XUS

David Y. Bannard, Esquire
Palmer & Dodge
One Beacon Street
Boston, MA 02108

Re: Audubon Hill South Condominium, Acton, Massachusetts

Dear Dave:

While I know that you and I have not talked about Audubon Hill in some time, Roy Smith forwarded me a letter of August 5, 1991, a copy of which is enclosed, and which is in some way self-explanatory. Roy met with Don Johnson and John Murray on Thursday, August 8, 1991, to discuss this situation.

As you will recall, Roy reserved the right to substitute different units for any restricted units so long as the total number of restricted units was not reduced in number. Although Roy appears to have the authority to do so without the Town approval, I had previously advised Roy that I want the Town to be made aware of any such changes and, in fact, such a change was made by Amendment No. 1 to the Master Deed, which was approved last February. In any case, Roy is ready to begin the construction of the next sub-phase and has been unable to sell existing constructed restricted units. Therefore, he is going to remove Units 23, 27, 29, and 31 as "Restricted Units" from the Audubon Hill South Condominium. He will make Units Nos. 125, 127, 130, and 132 in the Audubon Hill North Condominium "Restricted Units" in place of the same. Also, while the Acton Housing Authority has no funds to purchase the A.H.A. Restricted Unit No. 25, Roy has volunteered to make Unit No. 130 in the North Condominium an A.H.A. Restricted Unit.

Therefore, please find copies of the following proposed documents for your review and approval:

1. Amendment No. 3 to the Master Deed;
2. Second Supplemental Agreement; and
3. Release of Right of First Refusal of Unit No. 25 for the Acton Housing Authority.

David Y. Bannard, Esquire
August 9, 1991

I am simultaneously forwarding copies of the same to Don Johnson, John Murray and Roy Smith for their review and comments. Since Roy is in the process of finalizing the ongoing construction plans for the next sub-phase, and since I will be on vacation from August 19, 1991 through September 2, 1991, I would request that you review these documents at your earliest convenience and call me at the beginning of next week regarding any questions or modifications to the same.

If you have any specific questions, you can speak to Don or John, who are both up to date on the status of the matters raised in this letter.

Thanking you for your continuing cooperation, I remain

Very truly yours,

D'AGOSTINE, LEVINE & GORDON, P.C.

By: 

Stanley L. Gordon

SLG/vv

Enclosures (4)

cc: Don Johnson
John Murray ✓
Roy C. Smith

j/bannard.i



• TEL. (508) 263-0011

292 GREAT ROAD • ACTON, MA. 01720

REALTOR

August 5, 1991

Attorney Stanley Gordon
D'Agostine, Levine & Gordon
268 Main Street
Acton, MA 01720

Dear Stan:

It is our intention to move four of the "Restricted Units" at Audubon Hill to the North Phase N-2, due to the lack of purchasers for Restricted Units.

The Town has an option to purchase Unit 25 and due to a lack of funds is unable to pick up their option at this time. We are making Unit 25 the Restricted slab unit that we are required to sell at \$110,000.00.

Units number 23, 27, 29 & 31 named as Restricted units in the Master Deed will become Non-Restricted units.

Units number 130, 132, 127 & 125 in N-2 will become the new Restricted units.

Please notify the Town of these changes.

Sincerely,

R. Smith Associates, Inc.

By: 
Roy C. Smith

AMENDMENT NO. 3 TO THE MASTER DEED
OF AUDUBON HILL SOUTH CONDOMINIUM

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill South Condominium dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds, as amended by Amendment No. 1 To The Master Deed of Audubon Hill Condominium dated February 26, 1991, recorded as Instrument Number 51 of July 26, 1991 and Amendment No. 2 To The Master Deed of Audubon Hill Condominium dated July 24, 1991, recorded as Instrument Number 53 of July 26, 1991, in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11, and 14 of said Master Deed do hereby amend the Master Deed of Audubon Hill South Condominium by deleting Unit Numbers 23, 27, 29, and 31 as "Restricted Units" from Section 9.2, Subsection (a) and Subsection (b) and by removing Unit Number 25 as an "A.H.A. Restricted Unit" since the Acton Housing Authority has failed to exercise its option to purchase Unit 25. Notwithstanding anything to the contrary, Unit Nos. 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4, and 25 shall be known as the "Restricted Units" and Unit Nos. 2 and 4 shall be known as the "A.H.A. Restricted Units" within Section 9.2, Subsection (a) and Subsection (b) of the Master Deed of the Audubon Hill South Condominium.

In all other respects, the terms and provisions of the Master Deed, as amended, are hereby ratified and confirmed.

Witness our hand and seal this _____ day of August, 1991.

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

By: _____
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August , 1991

Then personally appeared the above-named Roy C. Smith, President, and Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public
My commission expires:

k/amendment

The Town of Acton hereby assents to the foregoing Amendment Number 3 To The Master Deed of Audubon Hill South Condominium and certifies that this document complies with the Terms, Conditions and Restrictions as delineated in the Comprehensive Development Agreement dated June 23, 1989, recorded in Book 19966, Page 008, with the Middlesex South District Registry of Deeds, as supplemented by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, said Deeds.

TOWN OF ACTON
Acting by and through its
Town Manager

Don P. Johnson

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

August , 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

Notary Public
My commission expires:

k/amendment

SECOND SUPPLEMENTAL AGREEMENT

This Agreement (the "Second Supplemental Agreement") is made as of the _____ day of August, 1991, by and between the Town of Acton, Massachusetts (the "Town"), a Massachusetts municipal corporation, having a usual place of business at the Acton Town Hall, Acton, MA 01720, acting by and through its Town Manager, the duly authorized designee of the Town's Board of Selectmen under the terms and conditions of a certain Comprehensive Development Agreement (the "Comprehensive Development Agreement") dated as of June 23, 1989, and recorded in Book 19966, Page 008 with the Middlesex South District Registry of Deeds, and a Supplemental Agreement (the "Supplemental Agreement" dated as of October 27, 1989, and recorded in Book 20205, Page 227 with said Deeds, and R. Smith Associates, Inc. (the "Developer"), a Massachusetts corporation having a usual place of business at 292 Great Road, Acton, MA 01720.

RECITALS

Reference is hereby made to the following facts:

A. The Town and the Developer entered into the Comprehensive Development Agreement and the Supplemental Agreement in order to set out the terms and conditions under which the Development Property (as defined in the Comprehensive Development Agreement) would be developed.

B. The Developer has created the Audubon Hill South Condominium by Master Deed dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds (the "Master Deed"). Section 9.2 of the Master Deed indicated that Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 would be "Restricted Units" in partial satisfaction of Section 3.3 (c) of the Comprehensive Development Agreement and that Unit Numbers 2, 4, and 25 (the "A.H.A. Restricted Units") would each be conveyed to the Acton Housing Authority for the price of Sixty Five Thousand (\$65,000.00) Dollars in partial satisfaction of Section 3.3(f) of the Comprehensive Development Agreement, subject to the Developers right to amend the restriction as set forth in Section 9.2(b) and Section 9.4 of the Master Deed by substituting a different Unit for any of the above-referenced "Restricted Units" so long as the total number of Units, so restricted is not reduced in number.

C. Despite an active sales and marketing campaign, the Developer has had difficulty in finding a sufficient number of qualified purchasers ("Eligible Purchasers" as defined in the "Master Deed") to purchase the "Restricted Units" in a manner to accommodate the scheduled order of construction.

D. The Acton Housing Authority has been unable to obtain sufficient funds to allow it to exercise its right of first refusal to purchase Unit Number 25 (an "A.H.A. Restricted Unit") in accordance with the Grant of Right Of First Refusal recorded in Book _____, Page _____ with said Deeds as an Exhibit to the Comprehensive Development Agreement. While the Developer's obligation to convey Unit Number 25 terminates upon the Acton Housing Authority's failure to exercise its option under the Grant of Right of First Refusal, the Developer desires to transfer the Acton Housing Authority's right of first refusal to a unit to be constructed in the Audubon Hill North Condominium in the hope that the Acton Housing Authority will have funds available at such time in order to allow the AHA to purchase five (5) units in accordance with the original Comprehensive Development Agreement.

E. The Town and the Developer wish to clarify certain of the terms and conditions of the Comprehensive Development Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements in this Second Supplemental Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Unit Numbers 23, 27, 29, and 31 of the Audubon Hill South Condominium shall no longer be "Restricted Units". The Developer shall, at the time of the creation of the Audubon Hill North Condominium, establish Unit Number 125, 127, 130, and 132 as "Restricted Units". Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4, and 25 shall be the "Restricted Units" within the Audubon Hill South Condominium, subject to the Developers continuing right to substitute a different Unit for any of the above-described "Restricted Units", so long as the total number of Units so restricted is not reduced in number.

2. Unit Number 25 shall no longer be an "A.H.A. Restricted Unit" since the Acton Housing Authority has failed to exercise its right of first refusal to purchase said Unit. The Developer hereby grants the Acton Housing Authority a right of first refusal to purchase Unit Number 130 in the Audubon Hill North Condominium, upon the same terms and conditions as existed in regard to the purchase of Unit Number 25 of the Audubon Hill South Condominium. Unit Numbers 2 and 4 of the Audubon Hill South Condominium remain the only "A.H.A. Restricted Units" within the Audubon Hill South Condominium.

3. Capitalized terms used in this Second Supplemental Agreement and not otherwise defined shall have the meaning ascribed to them in the Comprehensive Development Agreement.

4. The Comprehensive Development Agreement and the Supplemental Agreement remain in full force and effect and this Second

Supplemental Agreement shall be construed so as to supplement, clarify and amend such prior agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Agreement to be executed under seal as of the date first written above.

TOWN OF ACTON
Acting by and through
its Town Manager

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

Don P. Johnson, hereunto
duly authorized

Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August , 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August , 1991

Then personally appeared the above-named Roy C. Smith, President, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August , 1991

Then personally appeared the above-named Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public
My commission expires:

k/supplemental

RELEASE OF RIGHT OF FIRST REFUSAL

The undersigned, Acton Housing Authority, being the grantee under a Grant of Right of First Refusal from Roy C. Smith, Trustee of High Street PCRC Trust, recorded in Book _____, Page _____ with the Middlesex South District Registry of Deeds as an Exhibit to the Comprehensive Development Agreement by and between Roy C. Smith, Trustee of High Street PCRC Trust and the Town of Acton, recorded in Book 19966, Page 008 with said Deeds; said Grant of Right of First Refusal being to purchase Unit Number 25 in the Audubon Hill South Condominium created by Master Deed dated November 15, 1990, recorded in Book 20875, Page 79 with said Deeds, hereby acknowledges that it has not exercised said Right of First Refusal and hereby releases all of its right, title and interest to purchase said Unit Number 25 in the Audubon Hill South Condominium in Acton, Middlesex County, Massachusetts, which it may have under the aforesaid Grant of Right of First Refusal or Comprehensive Development Agreement.

Executed as a sealed instrument this _____ day of August, 1991.

ACTON HOUSING AUTHORITY

For Authority, See
Certificate of Vote
Recorded in
Book _____, Page _____,
with said Deeds.

By: _____

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

August _____, 1991

Then personally appeared the above-named
its _____ and acknowledged the foregoing instrument to
be the free act and deed of the Acton Housing Authority, before me

Notary Public
My commission expires:

k/relrightfr

243
D'AGOSTINE, LEVINE & GORDON, P.C.

ATTORNEYS AT LAW

268 MAIN STREET

ACTON, MASSACHUSETTS 01720-2223

508-263-7777

FAX 508-264-4868

August 15, 1991

AUG 16 1991

BOSTON OFFICE:
ONE BOSTON PLACE

CABLE "DALYN"

JULIAN J. D'AGOSTINE
LOUIS N. LEVINE
STANLEY L. GORDON
F. ALEX PARRA
CATHY S. NETBURN
JOHN M. DOMBROWSKI

Don Johnson, Town Manager
Town of Acton
Town Hall
Acton, MA 01720

Re: Audubon Hill South Condominium, Acton, Massachusetts

Dear Don:

Enclosed herewith please find the following documents, which revisions have been made in accordance with my telephone conference of August 14, 1991, with Dave Bannard:

1. Copy of Amendment No. 3 to the Master Deed of Audubon Hill South Condominium;
2. Original Assent to Amendment No. 3 to the Master Deed of Audubon Hill South Condominium;
3. Original Second Supplemental Agreement; and
4. Original Release of Right of First Refusal.

I am waiting for June Thornton of Roy Smith's office to obtain the form Grant of Right of First Refusal from the Acton Housing Authority, identical to the form previously utilized and attached to the Comprehensive Development Agreement as Exhibit G. Upon receipt of such form, I will prepare and have executed a Grant of Right of First Refusal from R. Smith Associates, Inc. to the Acton Housing Authority to purchase Unit 130 in the Audubon Hill South Condominium.

I am forwarding copies of all of the enclosed documents to Attorney Dave Bannard. You should speak with Dave to confirm that you can execute the originals. When he gives you the go ahead, I would ask that you execute same in front of a notary public and return them to me at your earliest convenience. I will not record any of these documents until R. Smith Associates, Inc. has executed a Grant of Right of First Refusal to the Acton Housing Authority to purchase Unit 130, which Grant will be recorded simultaneously with the other original documents.

Please contact me with any specific questions or concerns.

Very truly yours,

D'AGOSTINE, LEVINE & GORDON, P.C.

By: Stanley L. Gordon

SLG/vv
Enclosures (4)
cc: David Y. Bannard, Esquire
R. Smith Associates, Inc.

AMENDMENT NO. 3 TO THE MASTER DEED
OF AUDUBON HILL SOUTH CONDOMINIUM

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill South Condominium dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds, as amended by Amendment No. 1 To The Master Deed of Audubon Hill Condominium dated February 26, 1991, recorded as Instrument Number 51 of July 26, 1991 and Amendment No. 2 To The Master Deed of Audubon Hill Condominium dated July 24, 1991, recorded as Instrument Number 53 of July 26, 1991, in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11, and 14 of said Master Deed do hereby amend the Master Deed of Audubon Hill South Condominium by deleting Unit Numbers 23, 27, 29, and 31 as "Restricted Units" from Section 9.2, Subsection (a) and Subsection (b) and by removing Unit Number 25 as an "A.H.A. Restricted Unit" since the Acton Housing Authority has failed to exercise its option to purchase Unit 25. Notwithstanding anything to the contrary, Unit Nos. 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4, and 25 shall be known as the "Restricted Units" and Unit Nos. 2 and 4 shall be known as the "A.H.A. Restricted Units" within Section 9.2, Subsection (a) and Subsection (b) of the Master Deed of the Audubon Hill South Condominium.

In all other respects, the terms and provisions of the Master Deed, as amended, are hereby ratified and confirmed.

Witness our hand and seal this 26th day of August, 1991.

R. SMITH ASSOCIATES, INC.

By: Roy C. Smith
Roy C. Smith, President

By: Jean Smith
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 26, 1991

Then personally appeared the above-named Roy C. Smith, President, and Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill

Notary Public

My commission expires:

December 4, 1993

The Town of Acton hereby assents to the foregoing Amendment Number 3 To The Master Deed of Audubon Hill South Condominium and certifies that this document complies with the Terms, Conditions and Restrictions as delineated in the Comprehensive Development Agreement dated June 23, 1989, recorded in Book 19966, Page 008, with the Middlesex South District Registry of Deeds, as supplemented by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, said Deeds.

TOWN OF ACTON
Acting by and through its
Town Manager

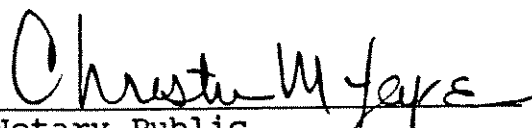

Don P. Johnson 8/28/91

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

August 28, 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me


Notary Public
My commission expires: 05-13-94

k/amendment.vii

SECOND SUPPLEMENTAL AGREEMENT

This Agreement (the "Second Supplemental Agreement") is made as of the _____ day of August, 1991, by and between the Town of Acton, Massachusetts (the "Town"), a Massachusetts municipal corporation, having a usual place of business at the Acton Town Hall, Acton, MA 01720, acting by and through its Town Manager, the duly authorized designee of the Town's Board of Selectmen under the terms and conditions of a certain Comprehensive Development Agreement (the "Comprehensive Development Agreement") dated as of June 23, 1989, and recorded in Book 19966, Page 008 with the Middlesex South District Registry of Deeds, and a Supplemental Agreement (the "Supplemental Agreement" dated as of October 27, 1989, and recorded in Book 20205, Page 227 with said Deeds, and R. Smith Associates, Inc. (the "Developer"), a Massachusetts corporation having a usual place of business at 292 Great Road, Acton, MA 01720.

RECITALS

Reference is hereby made to the following facts:

A. The Town and the Developer entered into the Comprehensive Development Agreement and the Supplemental Agreement in order to set out the terms and conditions under which the Development Property (as defined in the Comprehensive Development Agreement) would be developed.

B. The Developer has created the Audubon Hill South Condominium by Master Deed dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds (the "Master Deed"). Section 9.2 of the Master Deed indicated that Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 would be "Restricted Units" in partial satisfaction of Section 3.3 (c) of the Comprehensive Development Agreement and that Unit Numbers 2, 4, and 25 (the "A.H.A. Restricted Units") would each be conveyed to the Acton Housing Authority for the price of Sixty Five Thousand (\$65,000.00) Dollars in partial satisfaction of Section 3.3(f) of the Comprehensive Development Agreement, subject to the Developers right to amend the restriction as set forth in Section 9.2(b) and Section 9.4 of the Master Deed by substituting a different Unit for any of the above-referenced "Restricted Units" so long as the total number of Units, so restricted is not reduced in number.

C. Despite an active sales and marketing campaign, the Developer has had difficulty in finding a sufficient number of qualified purchasers ("Eligible Purchasers" as defined in the "Master Deed") to purchase the "Restricted Units" in a manner to accommodate the scheduled order of construction.

D. The Acton Housing Authority has been unable to obtain sufficient funds to allow it to exercise its right of first refusal

to purchase Unit Number 25 (an "A.H.A. Restricted Unit") in accordance with the Grant of Right Of First Refusal recorded in Book 19966, Page 264 with said Deeds as an Exhibit to the Comprehensive Development Agreement. While the Developer's obligation to convey Unit Number 25 terminates upon the Acton Housing Authority's failure to exercise its option under the Grant of Right of First Refusal, the Developer desires to transfer the Acton Housing Authority's right of first refusal to a unit to be constructed in the Audubon Hill North Condominium in the hope that the Acton Housing Authority will have funds available at such time in order to allow the AHA to purchase five (5) units in accordance with the original Comprehensive Development Agreement.

E. The Town and the Developer wish to clarify certain of the terms and conditions of the Comprehensive Development Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements in this Second Supplemental Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Unit Numbers 23, 27, 29, and 31 of the Audubon Hill South Condominium shall no longer be "Restricted Units". The Developer shall, at the time of the creation of the Audubon Hill North Condominium, establish Unit Number 125, 127, 130, and 132 as "Restricted Units". Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4, and 25 shall be the "Restricted Units" within the Audubon Hill South Condominium, subject to the Developers continuing right to substitute a different Unit for any of the above-described "Restricted Units", so long as the total number of Units so restricted is not reduced in number.

2. Section 3.3(f) of the Comprehensive Development Agreement is hereby amended to reflect that three (3) of the "A.H.A. Restricted Units" shall be constructed in the Audubon Hill North Condominium and that two (2) of the "A.H.A. Restricted Units" shall be constructed in the Audubon Hill South Condominium. Further, Unit Number 25 shall no longer be an "A.H.A. Restricted Unit" since the Acton Housing Authority has failed to exercise its right of first refusal to purchase said Unit. The Developer hereby grants the Acton Housing Authority a right of first refusal to purchase Unit Number 130 in the Audubon Hill North Condominium, upon the same terms and conditions as existed in regard to the purchase of Unit Number 25 of the Audubon Hill South Condominium. Unit Numbers 2 and 4 of the Audubon Hill South Condominium remain the only "A.H.A. Restricted Units" within the Audubon Hill South Condominium.

3. Capitalized terms used in this Second Supplemental Agreement and not otherwise defined shall have the meaning ascribed to them in the Comprehensive Development Agreement.

4. Except as amended hereby, the Comprehensive Development Agreement and the Supplemental Agreement remain in full force and effect and this Second Supplemental Agreement shall be construed so as to supplement, clarify and amend such prior agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Agreement to be executed under seal as of the date first written above.

TOWN OF ACTON
Acting by and through
its Town Manager

Don P. Johnson 8/28/91
Don P. Johnson, hereunto
duly authorized

R. SMITH ASSOCIATES, INC.

By: Roy C. Smith
Roy C. Smith, President

Jean Smith
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August 28, 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

Charles M. Joyce
Notary Public
My commission expires: 05-14-94

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August, 1991

Then personally appeared the above-named Roy C. Smith, President, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill
Notary Public
My commission expires:
December 4, 1993

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August, 1991

Then personally appeared the above-named Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Albert O. Merrill
Notary Public
My commission expires:
December 4, 1993

k/supplemental

RELEASE OF RIGHT OF FIRST REFUSAL

The undersigned, Acton Housing Authority, being the grantee under a Grant of Right of First Refusal from Roy C. Smith, Trustee of High Street PCRC Trust, recorded in Book 19966, Page 264 with the Middlesex South District Registry of Deeds as an Exhibit to the Comprehensive Development Agreement by and between Roy C. Smith, Trustee of High Street PCRC Trust and the Town of Acton, recorded in Book 19966, Page 008 with said Deeds; said Grant of Right of First Refusal being to purchase Unit Number 25 in the Audubon Hill South Condominium created by Master Deed dated November 15, 1990, recorded in Book 20875, Page 79 with said Deeds, hereby acknowledges that it has not exercised said Right of First Refusal and hereby releases all of its right, title and interest to purchase said Unit Number 25 in the Audubon Hill South Condominium in Acton, Middlesex County, Massachusetts, which it may have under the aforesaid Grant of Right of First Refusal or Comprehensive Development Agreement.

Executed as a sealed instrument this day of August, 1991.

ACTON HOUSING AUTHORITY

For Authority, See
Certificate of Vote
Recorded in
Book _____, Page _____,
with said Deeds.

By:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

August , 1991

Then personally appeared the above-named
its and acknowledged the foregoing instrument to
be the free act and deed of the Acton Housing Authority, before me

Notary Public
My commission expires:

k/relrightfr

D'AGOSTINE, LEVINE & GORDON, P.C.

ATTORNEYS AT LAW

268 MAIN STREET

ACTON, MASSACHUSETTS 01720-2223

508-263-7777

FAX 508-264-4868

JULIAN J. D'AGOSTINE
LOUIS N. LEVINE
STANLEY L. GORDON
F. ALEX PARRA
CATHY S. NETBURN
JOHN M. DOMBROWSKI

BOSTON OFFICE:
ONE BOYLSTON PLACE
NOV 27 1991

CABLE "DALYN"

November 25, 1991

Roy C. Smith, President
R. Smith Associates, Inc.
292 Great Road
Acton, MA 01720

Re: Audubon Hill South Condominium

Dear Roy:

Pursuant to your request, please find Amendment No. 5 To The Master Deed and the Third Supplemental Agreement, both of which are substantially the same documents utilized in August of 1991, when you last changed restricted units in the Audubon Hill development.

I am forwarding copies of the same to Don Johnson and David Bannard for their information.

Please execute the originals and deliver them to the Town for signature. Be sure to return the originals to me for recording purposes.

Very truly yours,

D'AGOSTINE, LEVINE & GORDON, P.C.

By: 

Stanley L. Gordon

SLG/vv

Enclosures

cc: Don P. Johnson, Town Manager ✓
David Bannard, Esquire

j/smith.i

AMENDMENT NO. 5 TO THE MASTER DEED
OF AUDUBON HILL SOUTH CONDOMINIUM

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill South Condominium dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds, as amended by Amendment No. 1 To The Master Deed of Audubon Hill Condominium dated February 26, 1991, recorded as Instrument No. 51 of July 26, 1991, Amendment No. 2 To The Master Deed of Audubon Hill Condominium dated July 24, 1991, recorded as Instrument No. 53 of July 26, 1991, Amendment No. 3 to the Master Deed of Audubon Hill Condominium dated August 26, 1991, recorded as Instrument Number 620 of November 1, 1991 and Amendment No. 4 to the Master Deed of Audubon Hill Condominium dated October 28, 1991, recorded as Instrument No. 623 of November 1, 1991 in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11, and 14 of said Master Deed do hereby amend the Master Deed of Audubon Hill South Condominium by deleting Unit Numbers 6, 8, 10 and 14 as "Restricted Units" from Section 9.2, Subsection (a) and Subsection (b). Notwithstanding anything to the contrary, Unit Nos. 1, 13, 17, 18, 48, 2, 4, and 25 shall be known as the "Restricted Units" and Unit Nos. 2 and 4 shall be known as the "A.H.A. Restricted Units" within Section 9.2, Subsection (a) and Subsection (b) of the Master Deed of the Audubon Hill South Condominium.

In all other respects, the terms and provisions of the Master Deed, as amended, are hereby ratified and confirmed.

Witness our hand and seal this _____ day of November, 1991.

R. SMITH ASSOCIATES, INC.

By: _____
Roy C. Smith, President

By: _____
Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

November , 1991

Then personally appeared the above-named Roy C. Smith, President, and Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public
My commission expires:

The Town of Acton hereby assents to the foregoing Amendment Number 5 To The Master Deed of Audubon Hill South Condominium and certifies that this document complies with the Terms, Conditions and Restrictions as delineated in the Comprehensive Development Agreement dated June 23, 1989, recorded in Book 19966, Page 008, with the Middlesex South District Registry of Deeds, as supplemented by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, said Deeds and a Second Supplemental Agreement, dated August 26, 1991, recorded as Instrument No. 621 of November 1, 1991, with said Deeds.

TOWN OF ACTON
Acting by and through its
Town Manager

Don P. Johnson

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

November , 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

Notary Public
My commission expires:

k/amendment.ix

THIRD SUPPLEMENTAL AGREEMENT

This Agreement (the "Third Supplemental Agreement") is made as of the ____ day of November, 1991, by and between the Town of Acton, Massachusetts (the "Town"), a Massachusetts municipal corporation, having a usual place of business at the Acton Town Hall, Acton, MA 01720, acting by and through its Town Manager, the duly authorized designee of the Town's Board of Selectmen under the terms and conditions of a certain Comprehensive Development Agreement (the "Comprehensive Development Agreement") dated as of June 23, 1989, and recorded in Book 19966, Page 008 with the Middlesex South District Registry of Deeds, and a Supplemental Agreement (the "Supplemental Agreement") dated as of October 27, 1989, and recorded in Book 20205, Page 227 with said Deeds, and a Second Supplemental Agreement (the "Second Supplemental Agreement") dated as of August 26, 1991 and recorded as Instrument No. 621 of November 1, 1991 with said Deeds and R. Smith Associates, Inc. (the "Developer"), a Massachusetts corporation having a usual place of business at 292 Great Road, Acton, MA 01720.

RECITALS

Reference is hereby made to the following facts:

A. The Town and the Developer entered into the Comprehensive Development Agreement and the Supplemental Agreement in order to set out the terms and conditions under which the Development Property (as defined in the Comprehensive Development Agreement) would be developed.

B. The Developer has created the Audubon Hill South Condominium by Master Deed dated November 15, 1990, recorded November 20, 1990, in Book 20875, Page 79 with the Middlesex South District Registry of Deeds (the "Master Deed"). Section 9.2 of the Master Deed indicated that Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 23, 27, 31, 38, 48, 2, 4, and 25 would be "Restricted Units" in partial satisfaction of Section 3.3 (c) of the Comprehensive Development Agreement, subject to the Developers right to amend the restriction as set forth in Section 9.2(b) and Section 9.4 of the Master Deed by substituting a different Unit for any of the above-referenced "Restricted Units" so long as the total number of Units, so restricted is not reduced in number.

C. The Second Supplemental Agreement modified the Comprehensive Development Agreement by removing Unit Numbers 23, 27, 29 and 31 as "Restricted Units" and establishing Unit Numbers 125, 127, 130 and 132 of the Audubon Hill North Condominium as "Restricted Units, in their place, and leaving Unit Numbers 1, 6, 8, 10, 13, 14, 17, 18, 48, 2, 4 and 25 as "Restricted Units" in the Audubon Hill South Condominium

D. Despite an active sales and marketing campaign, the Developer has continued to have difficulty in finding a sufficient number of qualified purchasers ("Eligible Purchasers" as defined in the "Master Deed") to purchase the "Restricted Units" in a manner to accommodate the scheduled order of construction.

E. The Town and the Developer wish to clarify certain of the terms and conditions of the Comprehensive Development Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements in this Third Supplemental Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Unit Numbers 6, 8, 10, and 14 of the Audubon Hill South Condominium shall no longer be "Restricted Units". The Developer shall, at the time of the creation of the Audubon Hill North Condominium, establish Unit Numbers 104, 108, 112, and 118 as "Restricted Units". Unit Numbers 1, 13, 17, 18, 48, 2, 4, and 25 shall continue to be the "Restricted Units" within the Audubon Hill South Condominium, subject to the Developers continuing right to substitute a different Unit for any of the above-described "Restricted Units", so long as the total number of Units so restricted is not reduced in number.

3. Capitalized terms used in this Third Supplemental Agreement and not otherwise defined shall have the meaning ascribed to them in the Comprehensive Development Agreement.

4. Except as amended hereby, the Comprehensive Development Agreement, the Supplemental Agreement and the Second Supplemental Agreement remain in full force and effect and this Third Supplemental Agreement shall be construed so as to supplement, clarify and amend such prior agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Third Supplemental Agreement to be executed under seal as of the date first written above.

TOWN OF ACTON
Acting by and through
its Town Manager

Don P. Johnson, hereunto
duly authorized

R. SMITH ASSOCIATES, INC.
By: _____
Roy C. Smith, President

Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

November , 1991

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

November , 1991

Then personally appeared the above-named Roy C. Smith, President, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

August , 1991

Then personally appeared the above-named Jean Smith, Treasurer, as aforesaid, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Notary Public

My commission expires:

k/supplemental.4

F

AMENDMENT NO. 6 TO THE MASTER DEED
OF AUDUBON HILL SOUTH CONDOMINIUM

R. Smith Associates, Inc., a Massachusetts Corporation, having a usual place of business at 292 Great Road, Acton, MA 01720, being the Declarant in a Master Deed of Audubon Hill South Condominium dated November 15, 1990, recorded November 20, 1990 in Book 20875, Page 79 with the Middlesex South District Registry of Deeds, in accordance with the provisions of said Master Deed as amended, including but not limited to Sections 1, 11 and 14 of said Master Deed does hereby amend the Master Deed of Audubon Hill South Condominium as follows:

1. Section 9.2 Restrictions On The Sale Of The Restricted Units and Section 9.3 Restrictions On The Resale Of The Restricted Units are hereby declared null and void and of no further force and effect except as to the four (4) Restricted Units numbered 17, 18, 25 and 48 which have previously been constructed and sold as Restricted Units.

2. The purpose of this Amendment is to confirm that there are no longer any Restricted Units in the Audubon Hill South Condominium except for Units 17, 18, 25 and 48 and that there are no longer any A.H.A. Restricted Units in the Audubon Hill South Condominium.

For additional authority, also see the Third Supplemental Development Agreement, to be recorded herewith.

In all other respects, the terms and provisions of the Master Deed, as amended, are hereby ratified and confirmed.

Witness our hand and seal this 25th day of February, 1992.

R. SMITH ASSOCIATES, INC.

By: Roy C. Smith

Roy C. Smith, President

By: Jean Smith

Jean Smith, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

February 25, 1992

Then personally appeared the above-named Roy C. Smith, President, and acknowledged the foregoing to be the free act and deed of R. Smith Associates, Inc., before me

Christine M. Joyce
Notary Public

My commission expires: 5-13-94

The Town of Acton assents to the foregoing Amendment Number 6 To The Master Deed of Audubon Hill South Condominium and certifies that there shall be no Restricted Units in the Audubon Hill South Condominium except for Units 17, 18, 25 and 48 and that there shall be no A.H.A. Restricted Units in the Audubon Hill South Condominium. This Amendment complies with the Terms, Conditions and Restrictions as delineated in the Comprehensive Development Agreement dated June 23, 1989, recorded in Book 19966, Page 008, with the Middlesex South District Registry of Deeds, as supplemented by a Supplemental Agreement dated October 27, 1989, recorded in Book 20205, Page 227, said Deeds, as supplemented by a Second Supplemental Agreement dated as of August 26, 1991, recorded in Book 21513, Page 494, said Deeds and a Third Supplemental Agreement, to be recorded herewith.

TOWN OF ACTON
Acting by and through its
Town Manager


Don P. Johnson

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

February 25, 1992

Then personally appeared the above-named Don P. Johnson, Town Manager of the Town of Acton, and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, before me


Notary Public

My commission expires: 5-13-94

k/audubonamendment.2